IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION No.17613 of 2007**

Between:
Mahender Kumar Agarwal

**….. PETITIONER**

AND
The Municipal Corporation of Hyderabad,
Rep.by it's Commissioner, Hyderabad
And another

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE S.ANANDA REDDY**

**WRIT PETITION No.17613 of 2007**

**ORDER:**

This writ petition is filed by the petitioner, aggrieved by the proceedings of the respondent-Municipal Corporation dated 19.01.2006, where the petitioner was directed to submit No Objection Certificate from the Collector and also Urban Land Ceiling Clearance from the Special Officer and competent authority.

It is stated that the petitioner submitted an application along with the application for approval for construction of the building in the premises bearing Door No.8-2-684/3/K/8, situated at Road No.12, Banjara Hills. The respondent authorities after receiving the same, issued the impugned communication, directing the petitioner to comply the same. The grievance of the petitioner is that the petitioner submitted the plan for re-construction of a building in the place of an existing building by way of improvement or additional development, and further, it is stated that as per the judgments of this Court, the respondent Corporation has no jurisdiction to insist for the submission of No Objection Certificates either from the Revenue Authorities or from the Urban Land Ceiling Authorities. The petitioner relied upon the judgment of this Court in ***Annapurna Builders vs. Municipal Corpn.of Hyd.***[1] and ***B.Murali v. Commissioner, Municipal Corporation of Hyderabad***[2]. In view of the above judgments of this Court, the learned counsel sought for setting aside the endorsement with a consequential direction to the respondents to consider the plan, without insisting for the No Objection Certificates from either of the above referred authorities.

A counter is filed on behalf of the respondent-Corporation, stating

that the Government issued Circular Memo No.20548/MI/97-MA, dated 27.09.1997 and also a letter/circular instructions No.8197/TPS/HO/CCP/MCH/2002-1981, dated 20.07.2002 by the Municipal Commissioner. Pursuant to the above, the Commissioner was empowered to call for Revenue Survey Records as well as insist to furnish the particulars, therefore, the endorsements are being issued by the authorities in conformity with the above referred circulars, therefore, sought for dismissal of the writ petition.

Heard on either side and considered the material on record.

Admittedly, this court has clarified the legal position with reference to the requirement of furnishing No Objection Certificates either from the revenue authorities or from the Urban Land Ceiling authorities, in the light of the provisions of the Hyderabad Municipal Corporation Act. It is not the case of the respondents that there is any amendment to the statute, making it obligatory on the part of the applicants to submit No Objection Certificates from the above referred authorities. But, what is relied upon by the respondents is only circular of the Government and consequential circulars or letter issued by the Commissioner to the other Officers of the Corporation.

The Circular memos issued as and by way of the above instructions cannot override the judgments of this Court and cannot confer authority or power on the respondent authorities to insist for the submission of No Objection Certificates from the above referred authorities.

Under the above circumstances, the impugned memo dated 19.01.2006 is set aside and the respondents are directed to consider the application of the petitioner on merits, in accordance with law, without insisting for the production of No Objection Certificates from the respective authorities.

The Writ Petition is, accordingly, allowed. No order as to costs.

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**S.ANANDA REDDY,J**

Dated: 20.09.2007
Dsr

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[1] 1987 (1) ALT 644
[2] 2006 (6) ALT 198